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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/717,735

11/21/2000

Olivier Dugeon

28944/36931

6770

8968

7590

09/03/2004

GARDNER CARTON & DOUGLAS LLP
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EXAMINER

GEORGE, KEITH M

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/717,735

Applicant(s)

DUGEON ET AL.

Examiner

Keith M. George

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2000.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-4, 9-12 and 16 is/are rejected.
7) ☒ Claim(s) 5-8 and 13-15 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 21 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4 and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayter, U.S. Patent 6,307,866, hereinafter Hayter.

3. Referring to claims 1 and 10, Hayter teaches a broadband telecommunications system including in figure 1 four data sources and five data sinks or destinations for data. Each of the data sources is connected to the ATM switch via transmission means which are representative of means for communication data in a form of ATM cells between the sources and the ATM switch (assigning, in advance, a set of virtual circuits of the TM network to each pair of access points). Within the ATM network shown in figure 1, each of the TM switches operates to allocate transmission bandwidth to data sources in accordance with a temporally fluctuation Available Bit Rate (ABR) bandwidth (without allocating transmission rate resources to the virtual circuits) (column 3, line 66 - column 4, line 34). Hayter goes on to teach that amongst the ATM cells transmitted from each of the data sources are resource management cells. Each of the resource management cells comprises a set of data fields which are used to communicate control information from the data sources to the ATM switch and also from the ATM switch to the data

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sources. Within the fields of resource management cells, there are included, amongst others, the following data fields: A Current Cell Rate (CCR) data field representative of a maximum rate at which the data source is permitted to communicate cells to the ATM switch. An Initial Cell Rate (ICR) field which is representative of a maximum data rate which the source agrees it will not exceed when it becomes active from an idle state (establish a connection between a source and a destination containing a message requesting activation of the selected virtual circuit). For example, in the case where the data source changes from an idle state, where it is not transmitting data, to an active state, the data source may transmit at the initial cell rate (assigning a transmission rate resource to the selected virtual circuit) (column 4, line 61 - column 5, line 15).

4. Referring to claim 2, Hayter teaches the method described in reference to claim 1 above where it was clearly shown that the resource management cells included a current and initial cell rate. Hayter also teaches that the resource management cells include a minimum and explicit rate (message contains an indication of a transmission rate resource required for the connection (column 4, line 61 - column 5, line 5)).

5. Referring to claims 3 and 11, Hayter teaches the method described in reference to claim 2 above and also teaches that if the ATM switch which receives the cells via the transmission means has sufficient capacity to communicate the cells from the data source to the destination, it will allocate ABR bandwidth to the data source by setting the value of the ER field in the B-RM (backward resource management) (acknowledged on the virtual circuit by the second access point) cells to a corresponding cell rate (column 5, lines 16-21).

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6. Referring to claims 4 and 12, Hayter teaches the method described in reference to claim 1 above and also teaches that in the case where a data source changes from an idle state, where it is not transmitting data, to an active state (activation request), the data source may transmit at the initial cell rate. Therefore the RM cells sent at that time may have CCR=ICR (connection establishment request) (column 5, lines 12-16).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayter in view of Baudelot et al., U.S. Patent 6,104,714, hereinafter Baudelot. Hayter teaches the method described in reference to claims 1 and 10 above with the possible exception of allocating two separate ATM circuits for two opposite directions of communication. Baudelot teaches a method and apparatus for allowing communication in an isochronous traffic of asynchronous transfer mode (ATM) cells in a ring network including teaching that each station may be fitted with two separate adapters, each one being dedicated to one direction (column 16, lines 63-65). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize the two adapters, each dedicated to one direction taught by Baudelot in the method of Hayter. One of ordinary skill in the art would have been motivated to do this to provide a double

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direction ring topology which allows reliability and effectiveness (Baudelot, column 16; lines 65-66).

Allowable Subject Matter

9. Claims 5-8 and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Hawkinson, U.S. Patent 6,295,532, teaches a resource manager that handles the installation, de-installation, and modification of flows. This includes handling and generating resource management data to control the data rate fro flow controlled connections such as, for example, ATM ABR.

b. Pei et al., U.S. Patent 6,167,049, teaches techniques and devices for scheduling available bit rate traffic over an asynchronous transfer node link.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith M. George whose telephone number is 571-272-3099. The examiner can normally be reached on M-Th 7:00-4:30, alternate F 7:00-3:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Keith M. George
2 September 2004



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9/2/04